

In view of the telephone conversation with applicant's representative on May 10, 2010, the following is a copy of the previous Office Action, which was mailed February 17, 2010, and which was missing at least one page of the Office Action due to a printing/scanning problem.

## **DETAILED ACTION**

### **Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 14, 2009 has been entered.

### **Election/Restrictions**

2. Claims 27, 30, 31, and 38 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 24, 2007.

### **Drawings**

3. The replacement sheets of drawings were received on December 20, 2006.

These drawings have been approved by the Examiner.

### **Claim Rejections - 35 USC § 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 21, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Piazze et al. (US 2,773,285).

With respect to claim 21, Piazze et al. teach a package (i.e., roll in Fig. 2) of individual disposable sterile transparent bags or "covers," 10 each cover consisting of a flat and entirely transparent planar sheet of pliable plastic film of uniform thickness throughout and a predetermined size in length and width. See, Figures 1 and 2 and column 2, lines 12-31 in particular. Additionally, it is noted that Piazze et al. teach the "covers" can be used "for enclosing commodities which are intended to be kept substantially free of bacterial, fungicidal, or other contamination" in column 1, lines 56-67 and column 3, lines 20-27.

Note that although Piazze et al. do not specifically teach the cover is used for covering a keyboard, note that the claim is drawn to the cover structure per se and not the combination of the cover and keyboard. Therefore, the claim language regarding

how the cover is used is merely the intended use of the cover and the claim language does not structurally distinguish from the container of Piazze et al. Thus, Piazze et al. teach a "cover" including all of the structure as recited and is capable of being used to cover a keyboard as recited.

Furthermore, it is noted that the majority of the claim language in claim 21 (such as the language regarding the cover being capable of inhibiting unintentional contact, not impeding the operator's ability to manipulate the keyboard, the cover configured to contact and entirely protect the keyboard surfaces, and the cover maintaining the keyboard sterile and uncontaminated) are merely functional recitations of desired modes of operation. Again, since Piazze et al. teach a "cover" having all of the structural elements as recited, it is capable of providing those functions and meets the claim language as recited.

With respect to claim 25-26, note that Piazze et al. teach a sheet including an upper member and lower member formed as an envelope with only one elongated opening along a top edge portion so as to be capable of contacting and protecting the entire upper surface and lower surface of a keyboard as broadly recited.

#### **Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as obvious over Piazze et al. (US 2,773,285).

With respect to claims 28 and 29, note that Piazze et al. teach the sterile cover is comprised of two identical flat rectangular members, each member having an elongated top edge portion, an elongated bottom edge portion, and two side edge portions, the flat members being fastened together along the two side edge portions (via the longitudinal seals) so as to be closed and along the elongated bottom edge portion (via the transverse seal 11) with an opening formed (via unsealed portion) along the elongated top edge portion that is capable of permit a keyboard to be inserted therein as recited. See, column 3, lines 13-19 of Piazze et al. in particular. Note that although Piazze et al. does not necessarily show in the Figures that the rectangular members are oriented or arranged such that the opening is formed along an "elongated" top edge (which is longer than the "short" side edges), Piazze et al. teach that the members are heat

sealed transversely at spaced intervals and the spacing of the interval may be varied as necessary to provide covers of any desired size or capacity (see, column 3, lines 1-6). Therefore, it would have been obvious to one of ordinary skill in the art to provide the rectangular members of any desired size and to create the transverse heat seals at such intervals so as to create rectangular covers of the desired size and configuration (such as having an elongated top edge portion, an elongated bottom edge portion and two short side edge portions, the bottom edge and side edges being fastened together such that one long opening is formed along the top edge) so as to best fit over the object desired to be protected.

9. Claims 32, 37, 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa (US 5,872,527) in view of Piazz et al. (US 2,773,285).

With respect to claim 32, Yanagisawa teaches a keyboard and an individual disposable transparent cover 34, 34' for protecting the sterility of and preventing contaminations between dental or medical patients, the cover comprising a flat and entirely transparent planar sheet of pliable film of uniform thickness and a predetermined size in length and width for forming an envelope or enclosure (column 11, lines 36-37) for enclosing the entire upper and lower surfaces of the keyboard as recited. See Figures 9-10 and column 11, lines 21-67 in particular. Note that the disposable cover of Yanagisawa is broadly capable of being disposed of after each patient as recited. Additionally, the keyboard of Yanagisawa is rectangular as shown in Figure 6 and therefore, it would appear that the sheet for enclosing the entire keyboard

would also be rectangular with long top and bottom edges and short side edges forming an envelope as recited. Although Yanagisawa is silent with respect to the particular details of the enclosure configuration, note Piazze et al. teach an individual transparent sterile "cover" 10 consisting of a flat and entirely transparent planar sheet of pliable plastic film of uniform thickness throughout and having a predetermined size in length and width, the sheet being rectangular and having a long top edge portion, a long bottom edge portion, and two short side edge portions, the sheet being formed as an envelope into which an object may be placed to cover and protect the object from bacterial, fungicidal or other contamination while allowing a user to clearly view the object. Note the previous comments with respect to claims 21, 25 and 26 above. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide the "cover" of Piazze et al. as the enclosure for the keyboard of Yanagisawa to provide a simple and easily replaceable sterile cover for better protection of the keyboard.

With respect to claim 37, note Yanagisawa as modified by Piazze et al. teach the keyboard and cover as recited with the possible exception of the envelope having an elongated opening along the long top edge portion with the bottom edge and side edges being closed. However, the exact size and configuration of the enclosure and the particular edge in which the opening is formed for insertion of object such as a keyboard appears to involve simply a matter of design choice. Therefore, it would have been obvious to one of ordinary skill in the art to provide the cover member of Piazze et al. to be sized and configured as an envelope with an elongated opening along any desired

edge, such as a top edge portion, while the other edges are closed to provide a flexible transparent cover for use in a sterile environment with an opening for allowing insertion of the keyboard inside the enclosure.

With respect to claims 41 and 42, note Yanagisawa as modified by Piazze et al. teach a keyboard and a disposable transparent sterile cover including sheet members of pliable plastic film of uniform thickness throughout and a predetermined size in length and width. Note the previous comments with respect to claims 32 and 37 in particular.

Again, it is noted that Piazze et al. teach the cover is comprised of two identical flat rectangular members, each member having an elongated top edge portion, an elongated bottom edge portion, and two side edge portions, the flat members being fastened together along the two side edge portions (via the longitudinal seals) so as to be closed and along the elongated bottom edge portion (via the transverse seal 11) with an opening formed (via unsealed portion) along the elongated top edge portion that is capable of permit a keyboard to be inserted therein as recited. See, column 3, lines 13-19 of Piazze et al. in particular. Note that although Piazze et al. does not necessarily show in the Figures that the rectangular members are oriented or arranged such that the opening is formed along an "elongated" top edge (which is longer than the "short" side edges), Piazze et al. teach that the members are heat sealed transversely at spaced intervals and the spacing of the interval may be varied as necessary to provide covers of any desired size or capacity (see, column 3, lines 1-6). Therefore, it would have been obvious to one of ordinary skill in the art to provide the rectangular members of any desired size and to create the transverse heat seals at such intervals so as to

create rectangular covers of the desired size and configuration (such as having an elongated top edge portion, an elongated bottom edge portion and two short side edge portions, the bottom edge and side edges being fastened together such that one long opening is formed along the top edge) so as to best fit over the object desired to be protected, such as the keyboard of Yanagisawa.

#### **Response to Arguments**

10. Applicant's arguments with respect to claims 21, 25-26, 28-29, 32, 37, 41 and 42 have been considered but are moot in view of the new ground(s) of rejection.

With respect to applicant's argument regarding the teaching of Yanagisawa, the Examiner points out that these arguments are merely speculation regarding how one of ordinary skill in the art might interpret the meaning of Yanagisawa beyond the general teaching of enclosing the keyboard. The Examiner further points out that she is relying on Yanagisawa primarily for the teaching of this broad concept of enclosing a keyboard with a flexible cover member so as to maintain the sterility of the keyboard.

Yanagisawa is silent with respect to any details of how the enclosure would be formed. However, the Examiner then relies on Piazze et al. to show a sterile cover member formed as an enclosure with the particular details of the envelope as recited. In view of this teaching, it is the Examiner's position that it would have been obvious to one of ordinary skill in the art to look to the cover of Piazze et al. as a means for providing the enclosure for the keyboard of Yanagisawa to provide a simple and easily replaceable sterile cover for better protection of the keyboard.

In view of the above reasoning, the Examiner is not persuaded of any error in the above rejections.

### **Conclusion**

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on T-F 8:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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